

INTRODUCTION TO THE BANKRUPTCY FORMS MANUAL

Second Edition

The Bankruptcy Forms Manual is published by the Administrative Office of the United States Courts as a service to both the public and the courts. It contains the Official Bankruptcy Forms and a comprehensive collection of bankruptcy procedural forms issued over the years by the Director of the Administrative Office for the United States Courts. The Manual also contains references to and explanations of the law and rules that govern the use of each form and instructions for completing each form.

The bankruptcy law of the United States is found in title 11 of the United States Code (11 U.S.C. § 101 et seq.), often referred to as the "Bankruptcy Code." Jurisdictional provisions relating to the bankruptcy courts and certain procedural matters in bankruptcy cases and proceedings are found in title 28 of the United States Code. Most procedural matters in bankruptcy, however, are governed by the Federal Rules of Bankruptcy Procedure (referred to as "Fed. R. Bankr. P." or "Bankruptcy Rules").

Although some material in the Bankruptcy Forms Manual has been published previously, this second edition represents a new direction in the publication of court forms. For the first time, all the Official Bankruptcy Forms are published with instructions for their completion. In addition, the collection includes many procedural forms that formerly were printed and distributed to the courts but now have been programmed into the software installed in computers at each court location. Courts can produce locally, as needed, most of the forms in this Manual with all the case-specific information filled in. Blank versions of these forms, though, are not readily available.

The Bankruptcy Forms Manual has two parts. Part I contains the Official Bankruptcy Forms, together with instructions for completing them. Part II contains additional, procedural, forms used in bankruptcy cases and instructions for completing and using them.

The instructional material for each Official Form has three sections: an "Introduction," a section labeled "Applicable Law and Rules," and "Directions" for completing the form. In Part II, the instructional material is more varied, as appropriate for each form.

Official Forms

The Official Bankruptcy Forms are prescribed by the Judicial Conference of the United States under authority granted in Federal Rule of Bankruptcy Procedure 9009. Rule 9009 requires use of the Official Forms, and many other Federal Rules of Bankruptcy Procedure direct a party intending to file a document to use "the appropriate Official Form." See, e.g., Fed. R.

Bankr. P. 1007(b). Among the Official Forms are the forms necessary to file a bankruptcy case, important notices and orders, and the proof of claim form to be used by a creditor seeking payment in a bankruptcy case.

The Official Forms are drafted for the Judicial Conference by the Advisory Committee on Bankruptcy Rules. The Official Forms also must be reviewed and approved by the Committee on Rules of Practice and Procedure before they are submitted to the Judicial Conference.

The Advisory Committee on Bankruptcy Rules has written a Committee Note describing each form or amendment to a form. These Committee Notes appear in a special section at the end of Part I.

The explanatory materials and instructions for completing each Official Form have been written by staff of the Bankruptcy Judges Division of the Administrative Office of the United States Courts. These materials necessarily are brief and provide only general guidance. They are not a substitute for advice from a qualified attorney who -- in addition to having knowledge of both bankruptcy law and applicable state law governing related subjects such as creditor's rights, debtor's exemptions, security interests, property transactions, and divorce -- will be familiar with the circumstances of the particular debtor or creditor.

Procedural Forms

Procedural forms for use in bankruptcy cases and proceedings are issued as necessary by the Director of the Administrative Office of the United States Courts under authority granted in Bankruptcy Rule 9009. Many of these forms, such as the discharge orders, typically will be completed by the staff of the bankruptcy court clerk's office. Others, such as the summons, typically are completed by a party in a bankruptcy proceeding, but must also be signed or otherwise "issued" by the clerk before they can be used. Others are to be completed by a party or member of the public and either filed in a case or otherwise submitted to the clerk.

Some of the forms in Part II formerly were official forms, but they were converted to procedural forms in 1991, when the Official Forms were revised. Many forms have been updated to reflect amendments to the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure made since the publication of the first Bankruptcy Forms Manual in 1988. A few forms are new and were developed to implement amendments to the Bankruptcy Code enacted in 1994.

The instructional material in Part II varies slightly, as appropriate to the particular form and how it typically will be used. For most of the forms there are sections labeled "Applicable Law and Rules" and "Instructions." For those forms normally completed by the clerk's office staff (such as orders) or that require some action by the clerk (such as "issuing" or certification)

there also is a section labeled "General Information for the Clerk." For some forms, the materials include a section titled "Information for the Public," and for a few there is a section labeled "Purpose of the Form."

The Manual includes two forms that no longer are used, the Bankruptcy Case Index Card and the Adversary Proceeding Index Card. These cards contain historical information on cases filed in the past that must remain accessible to the public. Bankruptcy clerk's offices now maintain computerized indexes of cases filed. The former card forms are included in the Manual, together with a brief description, to assist persons seeking information about cases filed before the introduction of automated record-keeping.

Local Forms

Many courts have local forms that either supplement those published here or present variations on them. Anyone intending to file a bankruptcy case or participate as a creditor or other party in interest in a bankruptcy case should contact the clerk's office of the particular bankruptcy court to determine whether there is a local form that should be used. With respect to taking any action for which an official form is prescribed, however, Bankruptcy Rule 9029(a)(1) provides that courts may not "prohibit or limit the use of the Official Forms."